

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN DOE,

Plaintiff,

v.

UNIVERSITY OF MICHIGAN, *et al.*,

Defendants.

:  
: Case No. 18-cv-11776  
:  
: Hon. Arthur J. Tarnow  
: Mag. Elizabeth A. Stafford  
:  
: **DEFENDANTS' REPLY IN**  
: **SUPPORT OF THEIR**  
: **OBJECTIONS TO [ECF**  
: **NO. 150] REPORT AND**  
: **RECOMMENDATION TO**  
: **DENY DEFENDANTS'**  
: **MOTION FOR SANCTIONS**  
: **AGAINST PLAINTIFF**  
: **JOHN DOE [ECF NO. 123]**  
:

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Doe stakes his argument that he did not act in bad faith on his representation that “[t]here is no evidence” that he “did not immediately address” his misrepresentations “as soon as they came to his attention.” (ECF No. 156, PageID.4013.) That contention is wrong. In fact, there is indisputable evidence that Doe did not correct any of his misrepresentations, even after he undeniably knew them to be false.

For example, Doe knew whether he had work due for Class 1 by the (misrepresented) due date of April 13, 2020. Doe did not have homework due on that date (*see* ECF No. 146, PageID.3885), but despite incontrovertibly knowing that fact by April 13th *at the absolute latest*, Doe made no effort to correct his misrepresentation to the Court prior to the emergency preliminary injunction hearing scheduled on April 16, 2020.

Likewise, even if Doe is to be believed,<sup>1</sup> he knew by April 13th *at the absolute latest* that he had no final exam at all for Class 1 and had misrepresented that fact to the Court. And yet here, too, he made no effort to correct his misrepresentation before the hearing scheduled for April 16th. Of course, this phenomenon is true across the board because Doe made no effort to correct *any* of

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<sup>1</sup> Doe contends that the final exam for this course was canceled during a lecture on April 13th (*see* ECF No. 129, PageID.3727), but Doe never had a final exam for this course because the professor never scheduled one (*see* ECF No. 146, PageID.3886). Doe did not correct the record with the Court after the exam was purportedly canceled.

his misrepresentations. Although the sheer volume of misrepresentations makes bad faith inescapable, *see In re Charfoos*, 979 F.2d 390, 394 (6th Cir. 1992), Doe's implication that he *did* address his misrepresentations with the Court once he became aware of them compounds the problem and reinforces the necessity for sanctions here.

What is the point of all of this? The point is not that Doe missed a date here or there; the point is that Doe systematically and falsely represented his obligations to the Court to gain an advantage, and now falsely contends he *corrected* those matters with the Court when he became aware of them to try to avoid a finding of bad faith. Against this backdrop there can be no doubt that Doe's conduct is sanctionable.

For the foregoing reasons, and those set forth in Defendants' objections (ECF No. 153), Defendants respectfully request that the Court: (1) sustain their objections to the Report and Recommendation to deny their motion for sanctions; and (2) enter an order imposing appropriate sanctions against Doe.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 29, 2020, I electronically filed the foregoing reply with the Clerk of the Court using the ECF system, which will send notification of such filing to:

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